

Docket No.
110/02239

1.976

OTPE

MAY 28 2004

PATENT & TRADEMARK OFFICE

Examiner
PREBILIC, P. B.

Title: EXPANDABLE INTERVERTEBRAL SPACER

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

37 CFR 1.97(b)

1. ☐ The Information Disclosure Statement submitted herewith is being filed within three months of the filing of a national application other than a continued prosecution application under 37 CFR 1.53(d); within three months of the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; before the mailing of a first Office Action on the merits, or before the mailing of a first Office Action after the filing of a request for continued examination under 37 CFR 1.114.

37 CFR 1.97(c)

2. ☒ The Information Disclosure Statement submitted herewith is being filed after the period specified in 37 CFR 1.97(b), provided that the Information Disclosure Statement is filed before the mailing date of a Final Action under 37 CFR 1.113, a Notice of Allowance under 37 CFR 1.311, or an Action that otherwise closes prosecution in the application, and is accompanied by one of:

☐ the statement specified in 37 CFR 1.97(e);

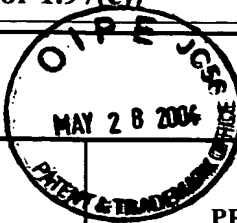
OR

- ☒ the fee set forth in 37 CFR 1.17(p).

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
(Under 37 CFR 1.97(b) or 1.97(c))

Docket No.
110/02239

In Re Application: Oren GLOBERMAN et al.



Serial No.
09/890,172

Filing Date
July 25, 2001

Examiner
PREBILIC, P. B.

Group Art Unit
3738

EXPANDABLE INTERVERTEBRAL SPACER

Payment of Fee

(Only complete if Applicant elects to pay the fee set forth in 37 CFR 1.17(p))

- ☐ A check in the amount of _____ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **03-3419** as described below.
- ☒ Charge the amount of **\$180.00**
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***This certificate may only be used if paying by deposit account.**

Paul Fenster

Signature

Dated: May 23, 2004

Paul FENSTER, Reg. No. 33,877

William H. Dippert, Esq.
Reed Smith LLP
599 Lexington Avenue, 29th Floor
New York, NY 10022-7650

Tel: (212) 521-5400

CC:



110/02239

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In regard to the application of: Oren GLOBERMAN et al.

Serial No : 09/890,172

Group Art Unit: 3738

Filed : July 25, 2001

Examiner: PREBILIC, P. B.

For : Expandable Intervertebral Spacer

FOURTH SUPPLEMENTARY INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment

Hon. Commissioner of Patents and Trademarks

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicants respectfully direct the attention of the Examiner to additional art cited with respect to U.S. Application No. 09/890,172 which is a U.S. national stage application under 35 U.S.C. §371 of PCT Application No. PCT/IL00/00058.

The Examiner is respectfully requested to review and consider this art, in accordance with MPEP §2001.06, MPEP §1893.03(e) and §MPEP 1893.03(g) and to indicate in the first office action that he has considered this art. Additionally, the Examiner is respectfully requested to cite those prior art publications mentioned in this application which the Examiner considers to be material or relevant to the present claims.

Further, in order to comply with discretionary regulations 37 C.F.R. §1.97 and §1.98, attached is an Equivalent to Form PTO-1449 listing the cited art. Also attached are copies¹ of the art. This art contains information which the Examiner may consider to be important in deciding whether to allow the present application to issue as a patent.

Since items 13 and 14 (DE 1 810 799 and DE 87 16 073 respectively) are in a foreign language, applicants attach copy of the English-language International Search Report citing it. This report was issued in a related PCT Application No. PCT/IL00/00471.

¹ To the extent that a document is listed and no copy of same is attached, then such document is not at the present time available to the undersigned or is available in the national stage file. If a listed document is not in the English language and an English translation is readily available, such translation is also attached; if translation is not attached, it is not readily available to the undersigned. If a foreign language patent document is cited, and an English language equivalent is known to the undersigned, then such an equivalent patent is also cited on the attached form along with the corresponding foreign language patent and a connecting arrow indicated therebetween; if no such English language equivalent is cited then none is known to the undersigned.

German Patent No. DE 196 12 276 (item 15,) which is cited in the International Search Report of a related PCT Application No. PCT/IL00/00471, a copy of which is attached hereto, is in a foreign language. Applicants attach a copy of an English-language abstract to the reference.

Additionally, French Patent No. FR 2 674 119 (item 16) is in a foreign language. Applicants attach a copy of an English-language abstract to the reference.

In accordance with MPEP §609 it is requested that each document cited [including any mentioned in Applicants' specification which is not repeated on the attached {or prior) PTO-1449 form(s) or equivalent(s) thereof] be given thorough consideration and be cited of record in the prosecution history of the present application by initialing on the PTO-1449 form or its equivalent, so that it will appear on the face of the patent issuing on the present application, even if the Examiner does not consider it sufficiently pertinent to use in a rejection, or otherwise does not believe that the guidelines for citation have been fully complied with.

The present Information Disclosure Statement is being submitted in compliance with 37 C.F.R. §1.56 as an Examiner might consider any cited document important in deciding whether to allow the application to issue as a patent, but the citation of each document is not to be construed as an admission that such document is necessarily relevant or prior art. No representation is intended that the cited documents represent the results of a complete search, and it is anticipated that the Examiner in the normal course of examination, will make an independent search and will determine the best prior art consistent with 37 C.F.R. §1.104(a), and in the course of such search will review for relevance every document cited on the attached form.

Early and favorable consideration is earnestly solicited.

Respectfully submitted,
Oren GLOBERMAN, et al.

Paul Fenster

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Registration No. 33,877

May 23, 2004
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PTO/SB92 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

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on May 26, 2004

Date

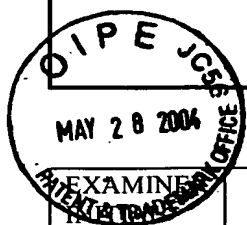
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Applicant: Oren Globerman, et al.
Serial No: 09/890,172
Filing Date: July 25, 2001
For: EXPANDABLE INTERVERTEBRAL SPACER
Enclosures: (1) Transmittal of Information Disclosure Statement (3 pages); (2) Fourth Supplemental Information Disclosure Statement (2 pages) w/IDS Citation (1 page); International Search Report & nineteen cited reference; (3) Acknowledgement Postcard.

Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



INFORMATION DISCLOSURE CITATION (Use several sheets if necessary)	ATTY DOCKET NO. 110/02239	SERIAL NO. 09/890,172
	APPLICANT(S) Oren GLOBERMAN et al.	
	FILING July 25, 2001	GROUP 3738

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	Filing date if appropriate
	1	4,274,163	23 Jun '81	MALCOM, L. L. et al.			
	2	4,346,708	31 Aug '82	LEVEEN, H. H. et al.			
	3	4,632,101	30 Dec '86	FREEDLAND, Y.			
	4	4,772,287	20 Sep '88	RAY, C. D. et al.			
	5	4,904,260	27 Feb '90	RAY, C. D. et al.			
	6	5,108,404	28 Apr '92	SCHOLTEN, A. et al.			
	7	5,376,123	27 Dec '94	KLAUE, K. et al.			
	8	5,578,035	26 Nov '96	LIN, C.			
	9	5,601,557	11 Feb '97	HAYHURST, J. O.			
	10	5,658,310	19 Aug '97	BERGER, J. L.			
	11	5,827,289	27 Oct '98	REILEY, M. A. et al.			
	12	6,248,110	19 Jun '01	REILEY, M. A. et al.			

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION	
							YES	NO
	13	DE 1 810 799	04 Jun '70	GERMANY				
	14	DE 87 16 073	24 Mar '88	GERMANY				
	15	DE 196 12 276	02 Oct '97	GERMANY			✓	
	16	FR 2 674 119	25 Sep '92	FRANCE			✓	
	17	WO 96/32899	24 Oct '96	PCT				

OTHER DOCUMENTS (Including Author, Title, Date Pertinent Pages, Etc.)

	18	NARUSHIMA, M.; JP 08-322848; December 10, 1996 & Database WPI; Section PQ; Week 199708; Derwent Publications Ltd., London, GB; Class P31, AN 1997-081321; XP002154628
	19	WEISSMAN, S. L. et al.; "Trochanteric Fractures of the Femur – Treatment with a Strong Nail and Early Weight-bearing;" November-December 1969; Pages 143-150; Clinical Orthopaedics and Related Research; No. 67; XP000964714

EXAMINER	DATE CONSIDERED
<small>*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</small>	

Equivalent to Form PTO-1449

Patent and Trademark Office*U.S. DEPARTMENT OF COMMERCE